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TESTE: LILLIE M. HART, CLERK
By [Signature] D.C.

VIRGINIA:

IN THE CIRCUIT COURT OF THE CITY OF CHESAPEAKE

COMMONWEALTH OF VIRGINIA,

v. CHESAPEAKE CASE NOS: CR03-3089, CR03-3090,
CR03-3091
Hon. Jane Marum Roush

LEE BOYD MALVO,

Defendant

**MOTION FOR THE COURT TO RULE
ON AUTHENTICITY OF DOCUMENTS TO AVOID
THE EXPENSE OF TRANSPORTING AND HOUSING
NOMINAL "KEEPERS OF RECORDS"**

COMES NOW the defendant, Lee Boyd Malvo, by his co-counsels, and moves this honorable Court to review and consider the following:

Counsel for the defense and prosecution have exchanged various requests for stipulations as to authenticity of what would seem to be undisputed documents or witnesses. These stipulations could save thousands of dollars of costs by avoiding the necessity for one side or the other to transport, house, feed, etc. witnesses to establish a fact or document which is not genuinely at issue.

The defense has agreed to stipulate all "chain of evidence" witnesses (44 witnesses, 58 testimonies) within the prosecution's case. That agreement will not be withdrawn no matter what position the prosecution takes on agreeing to defense requests nor what ruling this honorable Court makes as to this motion.

The defense has proposed the below-listed items, documents, etc. be stipulated (as to authenticity). Those requests have been rejected or not responded to by the Commonwealth. In an effort to prevent what would appear to be totally unnecessary costs to the taxpayers of

Virginia to produce a “keeper of the record” for each item, the defendant respectfully moves this Court to review each, hear argument from the Commonwealth and determine if the item can be deemed authentic for trial purposes. The defense acknowledges that the ultimate rulings as to admissibility, relevance, etc. will be issues to be determined at trial. The defense seeks this advance ruling simply in an effort to avoid totally unnecessary costs in witness expenses and counsel time to establish the obvious.

The defendant asks this honorable Court to rule the following items to be acceptable as authentic:

1. The military records of John Allen Williams (Muhammad) as supplied by the Department of Defense to the Commonwealth’s Attorney and supplied by the Commonwealth’s Attorney to the defense as part of its discovery response as ordered by this Court.
2. The school records (2 pages) of Lee Malvo from Rousseau Primary School 1993 (age 8) in Kingston, Jamaica.
3. The school records of dates of attendance (1 page) of Lee Malvo from Obistan Kinder-Prep in Kingston, Jamaica 1990, 1991 (ages 5, 6).
4. The school records (3 pages) of Lee Malvo from Antigua Seventh-Day Adventist School 1999-2000 (ages 14-15) in St. John, Antigua.
5. School financial records (10 pages) of payments for school and housing Lee Malvo for York Castle High School 1995, 1998, (ages 10-11, 13) in Brown’s Town, Jamaica.
6. The school records (1 page) of Lee Malvo from Gibraltar All Age School (6th Grade – ages 10-11) in Endeavor/Brown’s Town, Jamaica.
7. The school records of admission (1 page) from New Day Primary and Junior High School in Kingston, Jamaica (age 9).

8. "School Leaving Certificate" (1 page) of Lee Boyd Malvo from Brown's Town Basic School 9/3/90 to 7/3/91 (ages 5-6).

9. Certificate of Christening (1 page) 8/4/85 from the Born Again Church of Jesus Christ (Apostolic) (age 6 months).

10. The school records (6 pages) of Lee Malvo from Spalding Comprehensive High School (1997) (7th grade – age 12).

11. The school records (4 pages) of Lee Malvo from York Castle High School (1996, 1998-99) (ages 11, 12-13).

12. The school records (6 pages) of Lee Malvo from Antigua Seventh-Day Adventist School (1999-2000) (ages 14-15, grades 8-9).

13. The school records (6 pages) of Lee Malvo from Cypress Lake High School, Fort Myers, Florida (2001).

14. The school records (16 pages) of Lee Malvo from Bellingham High School, Bellingham, Washington (2001-2002)

15. The school records (5 pages) of Lee Malvo from Martin Hall Juvenile Detention Facility (INS holding facility) (2002).

16. Constabulary Department police report of shooting/murder of Angela Claire on July 6, 1996.

17. The following items produced by the Antigua and Barbuda Task Force Investigation Report produced for the Antigua and Barbados government and delivered to the United States Embassy as supplied by John Fuller, Queen's Counselor and Chairman.

A. Birth Registration Form for Lee Malvo – Kingston (1 page)

B. Immigration card (International E/D card) of Lee Malvo entering Antigua 12/14/99 (1 page)

- C. Immigration extension form dated 2/10/00 (1 page)
- D. Immigration extension form dated 11/24/00 (1 page)
- E. Application for an Antigua and Barbuda passport for John Allen Williams (8 pages)
- F. Receipt of Passport form of John Muhammad 6/19/00 (1 page)
- G. Official letter from the Ministry of Foreign Affairs of Antigua and Barbuda to the Embassy of the United States of America (1 page)
- H. International E/M cards of John A. Williams (Jr.), John Ferris, Talibah Muhammad, Salena Williams, and Lindbergh Williams dated 5/31/01 flying from Antigua to San Juan, Puerto Rico.

18. False documents submitted by John Allen Williams (Muhammad) in support of his application for employment by Antigua Sports Ministry

- a. Department of Army letter (1 page)
- b. Southern University and A&M College BS diploma (1 page)
- c. Louisiana State University Masters diploma (1 page)
- d. Letter from LSU Track Coach (1 page)
- e. Letter from Southern University Track Coach (1 page)
- f. Letter from Janet Harris, Principal, Greensville Primary School and explanation/statement by John E. Fuller.

19. Drawings seized from the cell of the defendant by Deputy Sheriff's and provided to the defense by the Commonwealth in discovery.

20. FBI Report/Questioned Documents Unit, dated December 17, 2002, bearing Lab Number 021031003 RT MJ MO EV AB and Bates stamped 001121-001124.

21. ATF Report, dated May 28, 2003, bearing lab Number 02N0871(10), and Bates stamped 002024-002026.

22. ATF Report, dated April 29, 2003, bearing Lab Number 02N0871 (2, 10 and 12), and
Bates stamped 002093-002097.

23. Section 9.41.250, 9.41.190, and 9.41.220 of the Revised Code of Washington
(State).

Respectfully submitted,

LEE BOYD MALVO

By _____ Co-Counsel _____

and

By _____ Co-Counsel _____

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CERTIFICATE OF SERVICE

We/I hereby certify that a true copy of the foregoing Motion/Memorandum was ~~mailed~~,
hard delivered *AC*
~~first class mail~~ to:

Robert F. Horan, Jr., Esquire
Commonwealth's Attorney
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and the original was forwarded for filing to:

Hon. John T. Frey
Clerk
Fairfax County Circuit Court
Fairfax County Judicial Center
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Fairfax, VA 22030-4009

and a true copy was forwarded to the

Hon. Jane Marum Roush
Judge
Fairfax County Circuit Court
Fairfax County Judicial Center
4110 Chain Bridge Road
Fairfax, VA 22030-4009

this 29th day of October, 2003.

Co-Counsel